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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,901	04/02/2001	Gregory Burns	MS1-095USC4	2420
22801	7590	02/16/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			RYMAN, DANIEL J	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,901

Applicant(s)

BURNS ET AL.

Examiner

Daniel J. Ryman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's arguments with respect to claims 51-76 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 51-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Vercauteren et al (USPN 5,504,935).
4. Regarding claims 51 and 64, Applicant admits as prior art a content provider, comprising: a storage system to store video content (page 1, line 9-page 7, line 10); a server (ref. 22) connected to the storage system to serve the video content to a local service provider (ref. 26) which provides the video content to multiple clients (ref. 28, 30, 32) (page 1, line 9-page 7, line 10); a network port adapted for connection to a first network (ref. 24), the server serving the video content via the first network to the local service provider (Fig. 1) (page 1, line 9-page 7, line 10) where the first network is a high-speed, high-bandwidth network (page 1, line 9-page 7, line 10).

Applicant does not expressly disclose as prior art a transmitter, responsive to the server, to transmit the video content over a second network to the local service provider, the second network being independent from the first network and providing additional bandwidth so that the

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transmitter can serve the video content to the local service provider in an event that the video content is not served via the first network within a designated time period and where the second network is a satellite network. However, Applicant does disclose as prior art that video requires strict delay requirements such that the video is served within a designated time period (page 1, line 9-page 7, line 10). Applicant also discloses as prior art that the amount of bandwidth available on the network affects the amount of delay the network imposes on traffic (page 1, line 9-page 7, line 10). Vercauteren teaches, in a communication system, using a transmitter to transmit data over a second network (global coverage radio network), the second network being independent from a first network (global coverage fixed network) (col. 2, lines 18-22; col. 8, lines 1-5; and col. 8, lines 44-64), where the second network provides additional bandwidth so that the transmitter can transmit data to a receiver on a path that has beneficial communication characteristics (load, bit error rate, availability, or QOS) (col. 2, lines 18-22; col. 10, lines 25-38; col. 14, lines 20-37; and col. 15, lines 52-55) and where the second network comprises a satellite network (col. 14, lines 1-10). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have a transmitter, responsive to the server, to transmit the video content over a second network to the local service provider, the second network being independent from the first network and providing additional bandwidth so that the transmitter can serve the video content to the local service provider in an event that the video content is not served via the first network within a designated time period and where the second network is a satellite network.

5. Regarding claims 52 and 65, Applicant in view of Vercauteren discloses that the network port comprises a connector compatible with a wire-based communications network (Applicant:

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page 1, line 9-page 7, line 10); and the transmitter comprises a transmitter capable of transmitting signals over a wireless medium (Vercauteren: col. 2, lines 18-22; col. 8, lines 1-5; and col. 8, lines 44-64).

6. Regarding claims 53 and 66, Applicant in view of Vercauteren discloses that the server is further configured to serve the video content to the local service provider in response to requests from the multiple clients (Applicant: page 1, line 9-page 7, line 10).

7. Regarding claims 54 and 67, Applicant in view of Vercauteren discloses that the server is further configured to serve the content to at least one other local service provider which provides the video content to multiple clients (Applicant: page 1, line 9-page 7, line 10).

8. Regarding claims 55 and 68, Applicant in view of Vercauteren discloses that the server is further configured to serve the video content to at least one other local service provider which provides the video content to multiple clients (Applicant: page 1, line 9-page 7, line 10); and the transmitter is further configured to transmit the video content over the second network to the at least one other local service provider (Vercauteren: col. 2, lines 18-22; col. 8, lines 1-5; and col. 8, lines 44-64).

9. Regarding claims 56, 57, 69, and 70, incorporating the rejection of claims 51 and 64, Applicant in view of Vercauteren discloses each limitation of claims 56, 57, 69, and 70, as outline in claims 51 and 64, except that the satellite network is a broadcast satellite network. However, Applicant in view of Vercauteren suggests that the satellite network is a broadcast satellite network since the server broadcasts streams to multiple clients (Applicant: page 1, line 9-page 7, line 10). Thus, it would have been obvious to one of ordinary skill in the art at the time

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of the invention to use a broadcast satellite network in order to allow the server to broadcast a stream to multiple service providers and clients.

10. Regarding claims 58 and 71, Applicant in view of Vercauteren discloses that the broadcast satellite network includes additional bandwidth to communicate the video content from the server to the local service provider (Vercauteren: col. 2, lines 18-22; col. 10, lines 25-38; col. 14, lines 20-37; and col. 15, lines 52-55).

11. Regarding claims 59 and 72, Applicant in view of Vercauteren suggests that the broadcast satellite network includes additional bandwidth to communicate a portion of the video content from the server to the local service provider in an event that the high-speed, high-bandwidth network does not communicate the portion of the video content within a designated time period (Vercauteren: col. 2, lines 18-22; col. 10, lines 25-38; col. 14, lines 20-37; and col. 15, lines 52-55).

12. Regarding claims 60 and 73, Applicant in view of Vercauteren suggests that the server is further configured to serve a first portion of the video content to the local service provider via the high-speed, high-bandwidth network, and serve a second portion of the video content to the local service provider via the broadcast satellite network (Vercauteren: col. 2, lines 18-22; col. 10, lines 25-38; col. 14, lines 20-37; and col. 15, lines 52-55).

13. Regarding claims 61 and 74, Applicant in view of Vercauteren discloses that the server is further configured to serve the video content to the local service provider in response to requests from the multiple clients (Applicant: page 1, line 9-page 7, line 10).

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14. Regarding claims 62 and 75, Applicant in view of Vercauteren discloses that the server is further configured to serve the content to at least one other local service provider which provides the content to multiple clients (Applicant: page 1, line 9-page 7, line 10).

15. Regarding claims 63 and 76, Applicant in view of Vercauteren discloses that the server is further configured to serve the video content to at least one other local service provider which provides the video content to multiple clients (Applicant: page 1, line 9-page 7, line 10); and the broadcast satellite network is further configured to communicate the video content from the server to the at least one other local service provider (Vercauteren: col. 2, lines 18-22; col. 8, lines 1-5; and col. 8, lines 44-64).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bishop, Jr. (USPN 5,523,997) see entire document which pertains to using a satellite system to bypass a terrestrial network and to minimizing propagation delay through a network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 7:00-4:30 with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJR
Daniel J. Ryman
Examiner
Art Unit 2665



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